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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,115	11/28/2001	Pascal Jordil	34119	2582

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PEARNE & GORDON LLP
526 SUPERIOR AVENUE EAST
SUITE 1200
CLEVELAND, OH 44114-1484

EXAMINER

GUADALUPE, YARITZA.

ART UNIT PAPER NUMBER

2859

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,115

Applicant(s)

JORDIL ET AL.

Examiner

Yaritza Guadalupe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 16 June 2003.

2a) ☒ This action is FINAL.

2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-43 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) 4-11, 15, 16, 20-27, 31, 36 and 38-43 is/are allowed.

6) ☒ Claim(s) 1-3, 12-14, 17-19, 28-30, 32-35 and 37 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

In response to Amendment filed June 16, 2003.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1 – 3, 12 - 14, 17 – 19 and 29 are finally rejected under 35 U.S.C. 102 (b) as being anticipated by Glasson (US 5,781,450).

Glasson discloses a coordinate measuring machine comprising a probe tip (22) designed for being brought into contact with the piece (16) to be measured, a displacement mechanism of said probe tip for movement in the three dimensional axes (x, y, z) as shown in Figure 1.

Glasson further discloses a measuring and displaying system (14, 31, 38) that allows the position of said probe tip to be determined and displayed, said measuring and displaying system being able to function according to several distinct modes (See Column 6, lines 26 – 39), wherein at least one of said measure modes can be selected by acting on the position of the probe tip without any other handling operating being necessary. Glasson discloses said measure mode being selected by pressing the probe tip against the piece to be measured during a time interval greater than a predetermined value, since coordinates from the direction of movement of the probe will determine the feature type, which implies that some time interval is present so as to obtain the measurements from / with the probe.

Glasson discloses an apparatus comprising a command program for measuring and displaying in a dimension – measuring column, said program enabling the position of the probe tip of said measuring column to be determined and displayed in computer monitor (31), said program being capable of making said measuring and displaying system function according to several distinct modes, wherein said program enables another of said measure modes to be selected by acting on the position of the probe tip, said program being performed by a computer (14).

With respect to claims 1 – 3, 14 and 15 : The method enabling a command to switch the measure mode to be entered in a dimension – measuring column provided with a probe tip wherein said command to switch the measure mode is entered by only making use of the position of said probe tip (See Column 6, lines 26 – 39), wherein said command to switch the measure mode is entered by pressing the probe tip against a piece to be measured during a time interval greater than a predetermined value, and wherein a measurement of the probing point is effected when the probe tip is pressed against said piece to be measured during a time interval shorter than said predetermined value can be made by the regular operation of the apparatus disclosed Glasson.

3. Claims 30, 32 – 35 and 37 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Kimura et al. (US 6,401,352).

Kimura et al. discloses a linear measuring machine comprising a probe tip (13) designed for being brought into contact with the piece to be measured, a displacement mechanism of said probe tip for movement in one dimensional axis (z) as shown in Figure 1. Kimura et al. further discloses a measuring and displaying system (16, 17, 18) that allows the position of said probe tip to be determined and displayed, said measuring and displaying system being able to function according to several distinct modes, wherein at least one of said measure modes can be selected by acting on the position of the probe tip by means of deliberate handling operation of a height – command crank (43), thus resulting in modifying the measuring accuracy and / or resolution. Kimura et al. discloses said measure mode being selected by pressing the probe tip against the

piece to be measured during a time interval greater than a predetermined value, since coordinates from the direction of movement of the probe will determine the feature type, which implies that some time interval is present so as to obtain the measurements from / with the probe.

The method as stated in claims 30 and 32 – 34 will be met by the regular operation of the apparatus disclosed by Kimura et al.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 28 is finally rejected under 35 U.S.C. 103 (a) as being unpatentable over Glasson (US 5,781,450) in view of Tsukamoto et al. (US 5,991,706).

Glasson discloses a coordinate measuring machine as stated in paragraph 3 above.

Glasson does not disclose the loudspeaker as stated in claim 28.

Regarding claim 28 : Tsukamoto et al. discloses a measuring apparatus comprising a control device (30) having an operation panel (8) for selecting a desired operational measuring mode (See Column 6, lines 30 – 41) and also having a loudspeaker / sound generator (14) for signaling. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a loudspeaker / sound generator as taught by Tsukamoto et al. to the apparatus disclosed by Glasson in order to provide a safety mechanism which produces a loud indication if a change has occurred in the process that will alert the user at long distances.

Allowable Subject Matter

6. Claims 4 – 11, 15 – 16, 20 – 27, 31, 36 and 38 – 43 are allowed.

Response to Arguments

7. Applicant's arguments filed June 16, 2003 have been fully considered but they are not persuasive.
8. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. Applicant argues that the height measuring

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column is much simpler than Glasson's three dimensional coordinate measuring machine since it only measures along one axis, Z- axis. However, the Applicant employs an open claim language which provides for additional elements to be present. In this case, Glasson teaches the use of a machine that allows for measurements in the Z – axis, if so desired by the user, but also allows for additional measurements in the X and Y – axis.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (703)305 -5676.

The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-4467 for regular communications and (703)872-9318 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Yaritza Guadalupe
Patent Examiner
Art Unit 2859
September 2, 2003

DIEGO F.F. GUTIERREZ
SUPERVISOR PATENT EXAMINER
TECHNOLOGY CENTER 2800